



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET - SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

October 25, 2005

Ref: 8ENF-L

SENT VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dale Hinze, Registered Agent
Red Eagle Oil, Inc. (F/K/A Hinze, Inc.)
1503 Sheridan Avenue
Cody, WY 82414

Re: In the Matter of Red Eagle Food Store #19
Docket No. RCRA-08-2006-0001
Complaint and Notice of Opportunity for Hearing

Dear Mr. Hinze:

The U.S. Environmental Protection Agency Region 8 ("EPA") is issuing you the enclosed Complaint and Notice of Opportunity for Hearing ("Complaint") for alleged underground storage tank ("UST") violations at the Red Eagle Food Store #19 facility ("facility") in Riverton, Wyoming. The Complaint is issued pursuant to section 9006 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6991e.

EPA alleges in the Complaint that you failed to comply with the federal UST regulations codified at 40 C.F.R. part 280, subpart D, for three USTs located at the facility in violation of RCRA § 9003(c), 42 U.S.C. § 6991(b)(c). Specifically, the Complaint alleges that you failed to monitor for leak detection every 30 days as required by 40 C.F.R. § 280.41(a); failed to investigate a suspected release in noncompliance with 40 C.F.R. § 280.52; and failed to report a suspected release to the implementing agency pursuant to 40 C.F.R. § 280.50. EPA proposes a total penalty of \$10,402 for the violations alleged.

You have the right to a hearing to contest the factual allegations in the Complaint. If you admit the allegations, or the allegations are found to be true after you have had an opportunity for a hearing, you have the right to contest the penalty proposed in the Complaint. A copy of EPA's administrative procedures is enclosed for your review. Please note the requirements for an Answer set forth in 40 C.F.R. §§ 22.15 and 22.38. If you wish to contest the allegations in the



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Complaint or the penalty proposed in the Complaint, you must file a written Answer within thirty (30) days of receipt of the enclosed Complaint with the EPA Regional Hearing Clerk at the following address:

Ms. Tina Artemis, Regional Hearing Clerk (8RC)
U.S. EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

If you do not file an Answer by the applicable deadline, you will have defaulted and each allegation in the Complaint may be deemed to be admitted as true. You will have waived your right to appear in this action for any purpose and will also have waived your right to be notified of any Agency proceedings that occur before a civil penalty may be imposed. Provided that the Complaint is legally sufficient, the Presiding Officer may then find you liable and assess against you a civil penalty of up to \$11,000 per violation for the alleged violations.

Whether or not you request a hearing, you may confer informally with EPA concerning the alleged violations or the amount of the proposed penalty. You have the right to be represented by an attorney at any stage of the proceedings, including any informal discussions with EPA, but it is not required. A request for an informal conference does not extend the thirty (30) day period for filing your Answer and/or requesting a hearing.

If you have any questions, the most knowledgeable people on my staff regarding this matter are Amy Swanson and Francisca Chambus. Ms. Swanson is in our Legal Enforcement Program and can be reached at (303) 312-6906. Ms. Chambus is in our Underground Storage Tank Program, and can be reached at (303) 312-6782.

We urge your prompt attention to this matter.

Sincerely,



Sharon Kercher, Director
Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice

Enclosures:

Consolidated Rules of Civil Procedure, 40 C.F.R. Part 22
Complaint and Notice of Opportunity for Hearing, with Exhibits 1 and 2

cc: Don Aragon, Wind River Environmental Quality Commission

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

2005 OCT 25 PM 2:42

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:

Red Eagle Oil, Inc. (F/K/A Hinze, Inc.)
P.O. Box 2468
Cody, WY 82414

(Red Eagle Food Store #19 Facility
203 N. Federal Boulevard
Riverton, WY 82501)

Respondents.

Docket No. ~~RCRA-08-2006-0001~~

**COMPLAINT AND NOTICE OF
OPPORTUNITY FOR HEARING**

AUTHORITY

This is a civil administrative action issued under the authority vested in the Administrator of the Environmental Protection Agency ("EPA") by Section 9006 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6991e. The Administrator has properly delegated this authority to the undersigned EPA officials. This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits ("Consolidated Rules") set forth at 40 C.F.R. part 22, a copy of which is enclosed.

GENERAL ALLEGATIONS

1. Subtitle I of RCRA, RCRA §§ 9001 - 9010, 42 U.S.C. §§ 6991 - 6991i, authorizes EPA to regulate the installation and use of "underground storage tanks" which contain "regulated substances."

2. EPA has jurisdiction over this matter pursuant to RCRA § 9006, 42 U.S.C. § 6991e.

3. Section 9003(c)(1) of RCRA, 42 U.S.C. § 6991b(c)(1), authorizes EPA to promulgate regulations setting forth requirements for maintaining a leak detection system, an

inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment. EPA has promulgated such regulations at 40 C.F.R. part 280, subpart D.

4. Petroleum and any fraction thereof is a regulated substance as defined at RCRA § 9001(2), 42 U.S.C. § 6991(2).

5. EPA is the "implementing agency" as that term is used at 40 C.F.R. § 280.12.

6. Respondent Red Eagle Oil, Inc., (formerly known as Hinze, Inc.) is a "person" as defined by section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and "owner" or "operator" within the respective meanings of RCRA §§ 9001(3) and (4), 42 U.S.C. §§ 6991(3) and (4), and 40 C.F.R. § 280.12, of an "underground storage tank system" ("UST" or "tank") as defined by RCRA § 9001(1), 42 U.S.C. § 6991(10), and 40 C.F.R. § 280.12.

7. Respondent owns and operates two 15,000 gallon double-walled steel tanks with a polyethylene jacket (identified as EPA Facility Id No. 6010002) installed in June 2004, at the Red Eagle Food Store #19 facility ("facility"), located at 203 N. Federal Boulevard, Riverton, Wyoming, within the exterior boundaries of the Wind River Indian Reservation. One 15,000 gallon tank (Tank 1) contains unleaded gasoline. One 15,000 gallon tank is compartmentalized and contains one 7,000 gallon compartment (Tank 2) for premium unleaded gasoline, and one 8,000 gallon compartment (Tank 3) for diesel.

8. Respondent's tanks meets the performance standards for new USTs described in 40 C.F.R. § 280.20.

9. Pursuant to 40 C.F.R. § 280.40(a), owners and operators of new and existing UST systems must provide a method, or a combination of methods, of leak detection that: (1) can detect a release from any portion of the tank and the connected underground piping that routinely contains product; (2) is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routing maintenance and service checks for operability or running condition; and (3) meets the performance requirements in 40 C.F.R. §§ 280.43 or 280.44.

10. Pursuant to 40 C.F.R. § 280.41(a), tanks must be monitored at least every thirty (30) days for releases using one of the methods listed in § 280.43(d) through (h) except that: (1) owners and operators of USTs that meet the performance standards in 40 C.F.R. §§ 280.20 or 280.21, and the monthly inventory control requirements in 40 C.F.R. § 280.43(a) or (b), may use tank tightness testing at least every five years until December 22, 1998, or until 10 years after the tank is installed or upgraded under 40 C.F.R. § 280.21(b), whichever is later.

11. Pursuant to 40 C.F.R. 280.45(b), all UST system owners and operators must maintain the results of any sampling, testing, or monitoring for at least one year.

12. Respondent was provided advance notice of a planned UST inspection at the facility by an EPA representative at least four working days prior to the inspection. Facility Manager Barb Gitchel was provided a list of documents that needed to be available on site for the inspection, including but not limited to the last 12-months of leak detection records.

13. On September 27, 2004, EPA inspectors Christopher Guzzetti, Janice Pearson, and Patricia Pfeiffer ("the inspectors"), accompanied by Lokilo St. Clair and Kara St. Clair, representatives from Wind River Environmental Office, and Robert Lucht, Wyoming Department of Environmental Quality, Water Quality Division, conducted an inspection at the facility to determine compliance with RCRA Subtitle I and the EPA regulations relating to USTs.

14. At the time of the inspection, the facility representative informed the inspectors that the facility uses automatic tank gauging as the method of leak detection.

15. At the time of the inspection, the facility representative was unable to produce for review the leak detection results for the past year. The only leak test report on site was for the month of September 2004.

16. At the time of the inspection, the facility representative was unable to produce for review the facility's cathodic protection records.

17. At the conclusion of the inspection, the inspectors informed the facility representative that the facility was out of compliance and explained the violations. The inspectors completed a "Notice of Inspection" form which was signed by and left with the facility

representative.

18. The facility representative provided EPA with the facility's leak detection and cathodic protection records following the inspection on October 15, 2004.

19. Section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2), states in pertinent part that any owner or operator of an underground storage tank who fails to comply with any requirement or standard promulgated by the Administrator under section 6991b of this title shall be subject to a civil penalty not to exceed \$12,000 for each tank for each day of violation.

20. As alleged herein and pursuant to section 9006(d)(2) of RCRA, 42 U.S.C. § 6991e(d)(2), and 40 C.F.R. § 19.4, Respondents are liable for civil penalties up to \$11,000 per day per tank during which the violation continues.

Count 1
(Failure to monitor every 30 days)

21. Pursuant to 40 C.F.R. § 280.41(a), tanks must be monitored every 30 days for releases using one of the methods listed in 40 C.F.R. § 280.43(d) through (h).

22. Respondent's chosen method of leak detection for the tanks at the facility is automatic tank gauging.

23. Respondent failed to monitor Tank 1 for leak detection for one 30-day period during the month of July 2004.

24. Respondent's failure to monitor Tank 1 for leak detection for the month of July 2004, constitutes a violation of RCRA § 9003(c), 42 U.S.C. § 6991b(c), and 40 C.F.R. § 280.41(a).

Count 2
(Failure to investigate suspected release)

25. Pursuant to 40 C.F.R. § 280.52, tank owners and operators must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under 40 C.F.R. § 280.50 within seven days, in accordance with the regulations.

26. On June 14, 2004, Tank 1 received a "Fail" test indicating a suspected release. No other tests were run by the ATG on Tank 1 until August 30, 2004, at which time it received a

“Pass.”

27. On August 23, 2004, Tank 2 received a “Fail” test indicating a suspected release. Tank 2 did not receive a “Pass” test until September 20, 2004.

28. On August 30, 2004, Tank 3 received a “Fail” test indicating a suspected release. Tank 3 did not receive a “Pass” test until September 27, 2004.

29. Respondent’s failure to investigate and confirm the suspected releases identified above constitutes three separate violations of RCRA § 9003(c), 42 U.S.C. § 6991b(c), and 40 C.F.R. § 280.52.

Count 3
(Failure to report suspected release)

30. Pursuant to 40 C.F.R. § 280.50, owners and operators of UST systems must report to the implementing agency within 24 hours, or another reasonable time period specified by the implementing agency, for conditions including, but not limited to, (c) failed leak tests indicating that a release may have occurred.

31. As alleged above in paragraphs 26 through 28, Respondent failed to report a suspected release to the implementing agency within 24 hours based on failed leak test results on June 14, 2004; August 23, 2004; and August 30, 2004.

32. Respondent's failure to report the suspected releases identified above to the implementing agency within 24 hours of failed leak test results constitutes three separate violations of RCRA § 9003(c), 42 U.S.C. § 6991b(c), and 40 C.F.R. § 280.50.

PROPOSED CIVIL PENALTY

RCRA § 9006(d)(2)(C), 42 U.S.C. § 6991e(d)(2)(C), authorizes the assessment of a civil penalty of up to \$11,000 for each UST for each day of violation. Based upon the facts alleged in this Complaint and taking into account the factors prescribed by statute, i.e., the seriousness of the violations and any good faith efforts by Respondents to comply with the applicable requirements, Complainant proposes to assess a civil penalty of \$10,402 as follows:

<u>COUNT</u>	<u>VIOLATION</u>	<u>PROPOSED PENALTY</u>
Count 1	Failure to monitor for leak detection every 30 days 40 C.F.R. § 280.41(a)	\$2,863
Count 2	Failure to investigate a suspected release 40 C.F.R. § 280.52	\$3,320
Count 3	Failure to report a suspected release 40 C.F.R. §280.50	\$4,219

TOTAL PROPOSED PENALTY: \$10,402

The proposed civil administrative penalty above has been calculated in accordance with the U.S. EPA Penalty Guidance for Violations of UST Regulations (November 1990) (Exhibit 1). This policy is used by EPA to provide a rational and consistent application of the statutory factors to the facts and circumstances of a specific case. The Penalty Calculation Worksheets for the alleged RCRA UST violation in support of the assessment of civil penalties proposed in this Complaint are attached hereto (Exhibit 2).

TERMS OF PAYMENT

If Respondent does not contest the findings and penalty proposal set forth above, this action may be resolved by paying the proposed penalty in full. If such payment is made within thirty (30) calendar days of receipt of this Complaint, then no Answer need be filed. For more time for payment, Respondent may file a statement agreeing to pay the penalty within thirty (30) days of receipt of the Complaint, then pay the money within sixty (60) days of such receipt. Payment is to be made by sending a certified or cashier's check payable to "Treasurer, United States of America," to:

EPA Region 8
(Regional Hearing Clerk)
Mellon Bank
P.O. Box 360859M
Pittsburgh, PA 15251

A copy of the check must be mailed simultaneously to:

Amy Swanson, Enforcement Attorney
Legal Enforcement Program
U.S. EPA Region 8 (8ENF-L)
999 - 18th Street, Suite 300
Denver, Colorado 80202-2466

Payment of the penalty in this manner shall constitute consent by Respondents to the assessment of the proposed penalty and a waiver of Respondents' right to a hearing on this matter.

OPPORTUNITY TO REQUEST A HEARING

As provided in RCRA § 9006(b), 42 U.S.C. § 6991e(b), a respondent has the right to request a public hearing within thirty (30) calendar days after this Complaint is served. If you (1) contest the factual claims made in this Complaint; (2) wish to contest the appropriateness of the proposed penalty; or (3) assert that you are entitled to judgment as a matter of law, you must file a written Answer in accordance with 40 C.F.R §§ 22.15 and 22.37 within thirty (30) calendar days after this Complaint is received.

Your answer must (1) clearly and directly admit, deny, or explain each of the factual allegations contained in the Complaint; (2) state all facts and circumstances, if any, which constitute grounds for defense; (3) state the facts intended to be placed at issue; and (4) specifically request an administrative hearing, if desired. The denial of any material fact or the raising of any affirmative defense in your Answer shall be construed as a request for a hearing. Failure to deny any of the factual allegations in this Complaint constitutes an admission of the undenied allegations.

The answer and one copy must be sent to the EPA Region 8 Regional Hearing Clerk (8RC), 999 - 18th Street, Suite 300, Denver, Colorado 80202-2466, and a copy must be sent to the enforcement attorney listed below.

IF YOU FAIL TO REQUEST A HEARING, YOU MAY WAIVE YOUR RIGHT TO FORMALLY CONTEST ANY OF THE ALLEGATIONS SET FORTH IN THE COMPLAINT.

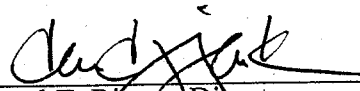
IF YOU FAIL TO FILE A WRITTEN ANSWER WITHIN THE 30 CALENDAR DAY TIME LIMIT, A DEFAULT JUDGMENT MAY BE ENTERED PURSUANT TO 40 C.F.R § 22.17. THIS JUDGMENT MAY IMPOSE THE PENALTY PROPOSED IN THE COMPLAINT.

SETTLEMENT CONFERENCE

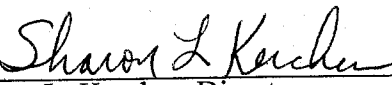
EPA encourages the exploration of settlement possibilities through an informal settlement conference. Please note that a request for, scheduling of, or participation in a settlement conference does not extend the period for filing an answer and request for hearing as set forth above. The settlement process, however, may be pursued simultaneously with the administrative litigation procedures found in 40 C.F.R. Part 22. If a settlement can be reached, its terms shall be expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the regional judicial officer. A request for a settlement conference or any questions that you may have regarding this Complaint should be directed to the attorney listed below.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Complainant.


Date: 18 October 2005

By: 
Michael T. Risner, Director
David J. Janik, Supervisory Attorney
Legal Enforcement Program

Date: October 24, 2005

By: 
Sharon L. Kercher, Director
Technical Enforcement Program

Date: October 25, 2005

By: 
Amy Swanson, Enforcement Attorney
U.S. EPA, Region 8
999 18th Street, Suite 300 (8ENF-L)
Denver, CO 80202-2466
Colorado Atty. Reg. No. 26488
Telephone: 303/312-6906
Facsimile: 303/312-6953

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with Exhibits 1 and 2 were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 999 18th Street, Denver, Colorado, and that a true copy of the same was mailed by certified mail to:

Dale Hinze, Registered Agent
Red Eagle Oil, Inc.
1503 Sheridan Avenue
Cody, WY 82414

10/25/05
Date

Judith M. McTernan
Signature

1st Page Only

**U.S. EPA PENALTY GUIDANCE
FOR VIOLATIONS OF
UST REGULATIONS**

November 1990

**Office of Underground Storage Tanks
U.S. Environmental Protection Agency**

Environmental Protection Agency

40 CFR Ch. I (7-1-05 Edition)

§ 21.13 shall also be sent to the Regional Administrator for review. The Regional Administrator shall notify the State, the applicant, and the SBA of any termination subsequently made, in accordance with § 21.5, on any such statement.

(1) If within 60 days after notice of such deficiencies has been provided, the State has not taken corrective efforts, and if the deficiencies significantly affect the conduct of the program, the Regional Administrator, after sufficient notice has been provided to the Regional Director of SBA, shall withdraw the approval of the State program.

(ii) Any State whose program is withdrawn and whose deficiencies have been corrected may later reapply as provided in § 21.12(a).

(g) Funds appropriated under section 106 of the Act may be utilized by a State agency authorized to receive such funds in conducting this program.

§ 21.13 Effect of certification upon authority to enforce applicable standards.

The certification by EPA or a State for SBA Loan purposes in no way constitutes a determination by EPA or the State that the facilities certified (a) will be constructed within the time specified by an applicable standard or (b) will be constructed and installed in accordance with the plans and specifications submitted in the application, will be operated and maintained properly, or will be applied to process wastes which are the same as described in the application. The certification in no way constitutes a waiver by EPA or a State of its authority to take appropriate enforcement action against the owner or operator of such facilities for violations of an applicable standard.

PART 22—CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION/TERMINATION OR SUSPENSION OF PERMITS

Subpart A—General

Sec.

22.1 Scope of this part.

22.2 Use of number and gender.

22.3 Definitions.

22.4 Powers and duties of the Environmental Appeals Board, Regional Judicial Officer and Presiding Officer; disqualification, withdrawal, and reassignment.

22.5 Filing, service, and form of all filed documents; business confidentiality claims.

22.6 Filing and service of rulings, orders and decisions.

22.7 Computation and extension of time.

22.8 *Ex parte* discussion of proceeding.

22.9 Examination of documents filed.

Subpart B—Parties and Appearances

22.10 Appearances.

22.11 Intervention and non-party briefs.

22.12 Consolidation and severance.

Subpart C—Prehearing Procedures

22.13 Commencement of a proceeding.

22.14 Complaint.

22.15 Answer to the complaint.

22.16 Motions.

22.17 Default.

22.18 Quick resolution; settlement; alternative dispute resolution.

22.19 Prehearing information exchange; prehearing conference; other discovery.

22.20 Accelerated decision; decision to dismiss.

Subpart D—Hearing Procedures

22.21 Assignment of Presiding Officer; scheduling the hearing.

22.22 Evidence.

22.23 Objections and offers of proof.

22.24 Burden of presentation; burden of persuasion; preponderance of the evidence standard.

22.25 Filing the transcript.

22.26 Proposed findings, conclusions, and order.

Subpart E—Initial Decision and Motion to Reopen a Hearing

22.27 Initial decision.

22.28 Motion to reopen a hearing.

Subpart F—Appeals and Administrative Review

22.29 Appeal from or review of interlocutory orders or rulings.

22.30 Appeal from or review of initial decision.

Subpart G—Final Order

22.31 Final order.

22.32 Motion to reconsider a final order.

Subpart H—Supplemental Rules

22.33 [Reserved]

22.34 Supplemental rules governing the administrative assessment of civil penalties under the Clean Air Act.

22.35 Supplemental rules governing the administrative assessment of civil penalties under the Federal Insecticide, Fungicide, and Rodenticide Act.

22.36 [Reserved]

22.37 Supplemental rules governing administrative proceedings under the Solid Waste Disposal Act.

22.38 Supplemental rules of practice governing the administrative assessment of civil penalties under the Clean Water Act.

22.39 Supplemental rules governing the administrative assessment of civil penalties under section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

22.40 [Reserved]

22.41 Supplemental rules governing the administrative assessment of civil penalties under Title II of the Toxic Substances Control Act, enacted as section 2 of the Asbestos Hazard Emergency Response Act (AHERA).

22.42 Supplemental rules governing the administrative assessment of civil penalties for violations of compliance orders issued to owners or operators of public water systems under part B of the Safe Drinking Water Act.

22.43 Supplemental rules governing the administrative assessment of civil penalties against a federal agency under the Safe Drinking Water Act.

22.44 Supplemental rules of practice governing the termination of permits under section 402(e) of the Clean Water Act or under section 3008(a)(3) of the Resource Conservation and Recovery Act.

22.45 Supplemental rules governing public notice and comment in proceedings under sections 309(g) and 311(b)(6)(B)(ii) of the Clean Water Act and section 1423(c) of the Safe Drinking Water Act.

22.46–22.49 [Reserved]

Subpart I—Administrative Proceedings Not Governed by Section 554 of the Administrative Procedure Act

22.50 Scope of this subpart.

22.51 Presiding Officer.

22.52 Information exchange and discovery.

AUTHORITY: 7 U.S.C. 1360(i); 15 U.S.C. 2615; 33 U.S.C. 1319, 1342, 1361, 1415 and 1418; 42 U.S.C. 3005–3(g), 6912, 6925, 6928, 6931e and 6932d; 42 U.S.C. 7413(d), 7524(c), 7545(d), 7547, 7601 and 7607(a), 9609, and 11045.

Subpart A—General

§ 22.1 Scope of this part.

(a) These Consolidated Rules of Practice govern all administrative adjudicatory proceedings for:

(1) The assessment of any administrative civil penalty under section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 1361(a));

(2) The assessment of any administrative civil penalty under sections 113(d), 205(c), 211(d) and 213(d) of the Clean Air Act, as amended (42 U.S.C. 7413(d), 7524(c), 7545(d) and 7547(d));

(3) The assessment of any administrative civil penalty or for the revocation or suspension of any permit under section 105(a) and (f) of the Marine Protection, Research, and Sanctuaries Act as amended (33 U.S.C. 1415(a) and (f));

(4) The issuance of a compliance order or the issuance of a corrective action order, the termination of a permit pursuant to section 3008(a)(3), the suspension or revocation of authority to operate pursuant to section 3005(e), or the assessment of any civil penalty under sections 3008, 9006, and 11005 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6925(d), 6925(e), 6928, 6991e, and 6992d)), except as provided in part 24 of this chapter.

(5) The assessment of any administrative civil penalty under sections 16(a) and 207 of the Toxic Substances Control Act (15 U.S.C. 2615(a) and 2647);

(6) The assessment of any Class II penalty under sections 309(g) and 311(b)(6), or termination of any permit issued pursuant to section 402(a) of the Clean Water Act, as amended (33 U.S.C. 1319(g), 1321(b)(6), and 1342(a));

(7) The assessment of any administrative civil penalty under section 109 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. 9609);

(8) The assessment of any administrative civil penalty under section 325 of the Emergency Planning and Community Right-To-Know Act of 1986 (“EPCRA”) (42 U.S.C. 11045);

(9) The assessment of any administrative civil penalty under sections

SOURCE: 64 FR 40176, July 23, 1999, unless otherwise noted.